

Election Involvement by Section 501(c)(3) Organizations (including Churches

Phone Forum September 2006

In This Session

- Background and description of prohibition against political campaign intervention by 501(c)(3) exempt organizations
- Scenarios illustrating political campaign intervention
- IRS initiatives - past, present and future

The Political Campaign Activities Prohibition

- Law since 1954 – strengthened in 1987
- Applies to 501(c)(3) organizations, but not other exempt organizations
- Does not apply to *lobbying*
- Not a “freedom of speech or religion” issue

What is Political Campaign Intervention?

- No “bright line” test in the Code
- IRS interprets laws, regulations, and court cases
- IRS examiners apply “facts and circumstances” tests
- Prohibition covers more than just express endorsements or contributions of money

Voter Education, Voter Registration, Get-Out-the-Vote Drives

- May be legitimate exempt activity
- Must be conducted in non-partisan manner
- Bias for or against a candidate indicates political intervention
- Bias need not be “express”

Activity by Organization's Leaders

- Prohibition does not restrict free expression by an individual
- Leaders cannot make partisan comments in official publications or at official functions
- Outside the organization, leaders should clearly indicate that comments are personal

Appearances or Speeches by Candidates

- Candidates may attend public events with or without an invitation
- Candidate speeches
 - Equal opportunity to all
 - No support or opposition by organization
 - No political fundraising

Acceptable Appearances in a “Non-candidate” Capacity

- Speaking as an expert or celebrity
- No mention of candidacy or election
- No campaign activity
- Organization must maintain nonpartisan atmosphere

Issue Advocacy vs. Political Intervention

- 501(c)(3) organizations may take positions on public policy issues
- Public policy position statements must not favor or oppose a candidate
- Policy statements not mentioning candidate by name may still violate prohibition

IRS's Political Activities Compliance Initiative 2004

- In response to increased allegations of political intervention
- Left unaddressed, improper use of organizations erodes public confidence and trust
- Investigating political intervention allegations presents varied and unique challenges

IRS's Political Activities Compliance Initiative 2004

- “Fast track” evaluation process; reviewed 166 new referrals
- 132 organizations selected for examination
- Fewer than half were churches
- 75% of organizations examined engaged in political intervention
- Revised initiative will continue

For More Information

- Fact Sheet 2006-17
 - Go to www.irs.gov
 - Click on “Newsroom”
 - Click on “Fact Sheets”
- Political Activity Compliance Initiative Report
 - Go to www.irs.gov/charities